



PTO/SB/21 (09-04)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

15

Application Number

10/727139

Filing Date

December 2, 2003

First Named Inventor

Daniel W. English

Art Unit

3623

Examiner Name

Not Yet Assigned

Attorney Docket Number

CDPC-P01-011

ENCLOSURES (Check all that apply)

☒ Fee Transmittal Form☐ Fee Attached☐ Amendment/Reply☐ After Final☐ Affidavits/declaration(s)☐ Extension of Time Request☐ Express Abandonment Request☐ Information Disclosure Statement☐ Certified Copy of Priority Document(s)☐ Reply to Missing Parts/
Incomplete Application☐ Reply to Missing Parts under
37 CFR 1.52 or 1.53☐ Drawing(s)☐ Licensing-related Papers☐ Petition☐ Petition to Convert to a
Provisional Application☐ Power of Attorney, Revocation
Change of Correspondence Address☐ Terminal Disclaimer☐ Request for Refund☐ CD, Number of CD(s) _____☐ Landscape Table on CD☐ After Allowance Communication
to TC☐ Appeal Communication to Board of
Appeals and Interferences☐ Appeal Communication to TC
(Appeal Notice, Brief, Reply Brief)☐ Proprietary Information☐ Status Letter☒ Other Enclosure(s) (please
Identify below):Request for Reconsideration of Petition
Under 37 C.F.R. 1.47(b)(2 pgs)
Executed Oath/Declaration (4 pgs)
Copy of Petition Dismissed (4 pgs)
Supp. App. Data Sheet (3 pages)
Return Receipt Postcard

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

ROPES & GRAY LLP

Signature

Printed name

Edward J. Kelly

Date

February 7, 2005

Reg. No.

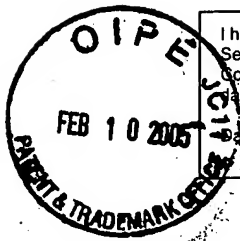
38,936

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: 2-7-05

Signature:

(Denise Camerato)



I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: 2-7-05 Signature: Denise Camerato
(Denise Camerato)

Docket No.: CDPC-P01-011
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
English et al.

Application No.: 10/727139

Confirmation No.: 5324

Filed: December 2, 2003

Art Unit: 3623

For: DISTRIBUTED SYSTEMS FOR
DETERMINING CARD STATUS

Examiner: Not Yet Assigned

REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. 1.47(b)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

INTRODUCTORY COMMENTS

In response to Decision Dismissing Petition dated January 21, 2005 to the Decision on the Petition under 37 C.F.R. 1.47(b) filed 7 October, 2004 applicant hereby submits the executed Declaration.

Enclosed herewith is the executed Declaration. This executed Declaration addresses all issues raised in the Decision to Dismiss Petition. A Supplemental Application Data sheet has been provided reflecting inventorship information. A copy of the Petition Dismissed under 37. C.F.R. 1.47(b) has been provided with this filing.

02/11/2005 HALI11 00000013 181945 10727139

01 FC:1463 200.00 DA

In view of the above Request, we believe the pending application satisfies 37 C.F.R. 1.47(b). Applicant believes a fee is due with this request. Please charge our Deposit Account No. 18-1945 \$130.00, under Order No. CDPC-P01-011 from which the undersigned is authorized to draw.

Dated: February 7, 2005

Respectfully submitted,

By 
Edward J. Kelly

Registration No.: 38,936
ROPES & GRAY LLP
One International Place
Boston, Massachusetts 02110-2624
(617) 951-7000
(617) 951-7050 (Fax)
Attorneys/Agents For Applicant



PTO/SB/17p (11-04)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no person are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FEE
Under 37 CFR 1.17(f), (g) & (h)
TRANSMITTAL

(Fees are subject to annual revision)

Send completed form to:Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	10/727139
Filing Date	December 2, 2003
First Named Inventor	Daniel W. English
Art Unit	3623
Examiner Name	Not Yet Assigned
Attorney Docket Number	CDPC-P01-011

Enclosed is a petition filed under 37 CFR 1.136(b) that requires a processing fee (37 CFR 1.17(f), (g), or (h)). Payment of \$ 130.00 is enclosed.

This form should be included with the above-mentioned petition and faxed or mailed to the Office using the appropriate Mail Stop (e.g., Mail Stop Petition), if applicable. For transmittal of processing fees under 37 CFR 1.17(i), see form PTO/SB/17i.

Payment of Fees (small entity amounts are NOT available for the petition fees).☒ The Commissioner is hereby authorized to charge the following fees to Deposit Account No. 18-1945 :☒ Petition fee under 37 CFR 1.17(f), (g) or (h) ☒ Any deficiency of fees and credit of any overpayments

Enclose a duplicative copy of this form for fee processing.

☐ Check in the amount of \$ _____ is enclosed.☐ Payment by credit card (Form PTO-2038 or equivalent enclosed). Do not provide credit card information on this form.**Petition Fees under 37 CFR 1.17(f): Fee \$400 Fee Code 1462**

For petitions filed under:

§ 1.53(e) – to accord a filing date.

§ 1.57(a) – to accord a filing date.

§ 1.182 – for decision on a question not specifically provided for.

§ 1.183 – to suspend the rules.

§ 1.378(e) – for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.

§ 1.741(b) – to accord a filing date to an application under § 1.740 for extension of a patent term.

Petition Fees under 37 CFR 1.17(g): Fee \$200 Fee Code 1463

For petitions filed under:

§ 1.12 – for access to an assignment record.

§ 1.14 – for access to an application.

§ 1.47 – for filing by other than all the inventors or a person not the inventor.

§ 1.59 – for expungement of information.

§ 1.103(a) – to suspend action in an application.

§ 1.136(b) – for review of a request for extension of time when the provisions of section 1.136(a) are not available.

§ 1.295 – for review of refusal to publish a statutory invention registration.

§ 1.296 – to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.

§ 1.377 – for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.

§ 1.550(c) – for patent owner requests for extension of time in *ex parte* reexamination proceedings.§ 1.956 – for patent owner requests for extension of time in *inter partes* reexamination proceedings.

§ 5.12 – for expedited handling of a foreign filing license.

§ 5.15 – for changing the scope of a license.

§ 5.25 – for retroactive license.

Petition Fees under 37 CFR 1.17(h): Fee \$130 Fee Code 1464

For petitions filed under:

§ 1.19(g) – to request documents in a form other than that provided in this part.

§ 1.84 – for accepting color drawings or photographs.

§ 1.91 – for entry of a model or exhibit.

§ 1.102(d) – to make an application special.

§ 1.138(c) – to expressly abandon an application to avoid publication.

§ 1.313 – to withdraw an application from issue.

§ 1.314 – to defer issuance of a patent.

Signature

Edward J. Kelly

Typed or printed name

February 7, 2005

Date

38,936

Registration No., if applicable

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: 2-7-05

Signature: Denise Camerato (Denise Camerato)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DECLARATION FOR PATENT APPLICATION

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am an original, first and joint inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

DISTRIBUTED SYSTEMS FOR DETERMINING CARD STATUS

the specification of which was filed on December 2, 2003 as Application No. 10/727139.

In the event that the filing date and/or Application No. are not entered above at the time I execute this document, and if such information is deemed necessary, I hereby authorize and request my attorneys/agent(s) at **Ropes & Gray LLP**, One International Place, Boston, Massachusetts 02110-2624, to insert above the filing date and/or Application No. of said application.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by an amendment, if any, specifically referred to herein.

I acknowledge the duty to disclose all information known to me that is material to patentability in accordance with Title 37, Code of Federal Regulations, § 1.56.

FOREIGN PRIORITY CLAIM

I hereby claim foreign priority benefits under Title 35, United States Code § 119(a)-(d) of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

☒ no such foreign applications have been filed

☐ such foreign application have been filed as follows:

**EARLIEST FOREIGN APPLICATION(S), IF ANY FILED WITHIN 12 MONTHS
(6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION**

Application Number	Country	Date of Filing	Priority Claimed Under 35 USC 119
			___ Yes No ___
			___ Yes No ___
			___ Yes No ___

**ALL FOREIGN APPLICATION(S), IF ANY FILED MORE THAN 12 MONTHS
(6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION**

Application Number	Country	Date of Filing

CLAIM FOR BENEFIT OF EARLIER U.S. PROVISIONAL APPLICATIONS

I hereby claim priority benefits under Title 35, United States Code §119(e), of any United States provisional patent application(s) listed below:

☐ no such U.S. provisional applications have been filed.

☒ such U.S. provisional application have been filed as follows:

Application Number	Date of Filing	Priority Claimed Under 35 USC 119
60/430494	December 2, 2002	<u> x </u> Yes No ___
		___ Yes No ___
		___ Yes No ___

CLAIM FOR BENEFIT OF EARLIER U.S./PCT APPLICATION(S)

I hereby claim the benefit under Title 35, United States Code, §120 of the United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose all information that is material to patentability in accordance with Title 37, Code of Federal Regulations, §1.56 which became available to me between the filing date of the prior application and the national or PCT international filing date of this application:

☒ no such U.S./PCT applications have been filed.

☐ such U.S./PCT application have been filed as follows:

Application Number	Relationship	Parent Application	Date of Filing

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

I hereby appoint:

All practitioners at Customer Number 28120

all of **Ropes & Gray LLP**, One International Place, Boston, Massachusetts 02110-2624, jointly, and each of them severally, my attorneys at law/patent agent(s), with full power of substitution, delegation and revocation, to prosecute this application, to make alterations and amendments therein, to receive the patent, and to transact all business in the U. S. Patent and Trademark Office connected therewith.

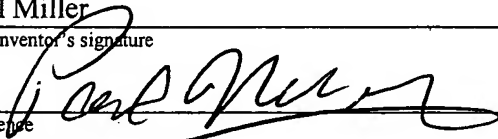
Please mail all correspondence to Edward J. Kelly, whose address is:


Ropes & Gray LLP
One International Place
Boston, Massachusetts 02110-2624

Please direct telephone calls to: Edward J. Kelly at (617) 951-7532.

Please direct facsimiles to: (617) 951-7050

*

Full name of first inventor, if any Paul Miller	
First inventor's signature 	Date 2/1/2005
Residence Derry, New Hampshire	
Citizenship US	
Mailing Address 64 Drew Woods Drive Derry, New Hampshire 03038	

Full name of second inventor Daniel W. English	
Second inventor's signature 	Date 2/1/05
Residence Salem, New Hampshire	
Citizenship US	
Mailing Address 11 Redwood Rd. Salem, New Hampshire 03079	
Full name of third inventor, if any	
Third inventor's signature	Date
Residence	
Citizenship	
Mailing Address	

Full name of fourth inventor, if any	
Fourth inventor's signature	Date
Residence	
Citizenship	
Mailing Address	



UNITED STATES PATENT AND TRADEMARK OFFICE



COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JGJR.: 01-054

Paper No: ____

ROPES & GRAY LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110-2624

COPY MAILED

JAN 21 2005

OFFICE OF PETITIONS

In re Application of
English
Application No. 10/727,139
Filed: 2 December, 2003
Attorney Docket No. CDPC-011701-011

ON PETITION

This is a decision on the petition under ¶(b) of 37 C.F.R. §1.47, filed on 7 October, 2004.

The petition is **DISMISSED**.

NOTE: Any petition (and fee) for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)" and may include an oath or declaration executed by the inventors.

Thereafter there will be no further reconsideration. Failure to respond will result in abandonment of the application.

BACKGROUND

The record indicates:

- this application was filed on 2 December, 2003, without, *inter alia*, an executed oath or declaration by the named inventor;
- accordingly, on 4 March, 2004, the Office mailed a Notice of Missing Parts;

Ropes & Gray
Symbol #: C) PC - P01-011
Action Due: Petition to Reconsider Decision
Deadline(s): 21 Feb 2005 / 21 Mar 2005
Final

Ropes & Gray

JAN 25 2005

Intellectual Property Dept.

- in response to the Notice of Missing Parts, Petitioner filed the instant petition (over a 4 October, 2004, certificate of mailing) on 7 October, 2004 (with a request and fee for a five- (5-) month extension of time and the surcharge) by Petitioner Edward J. Kelley (Reg. No. 38,936)—while Petitioner alleges transmission of the entire application (specification, claims and drawings) to the non-signing inventor Daniel W. English (Mr. English), Petitioner fails to provide a copy of the transmittal letter in support of the allegation and fails to make and support allegation of rights/interest in the application and risk of irreparable harm/damage.

Moreover, Petitioner failed to include a signed oath/declaration executed by an authorized executive of the alleged assignee on behalf of the non-signing inventor.

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

§1.47 Filing when an inventor refuses to sign or cannot be reached.

* * *

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63

* * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

§1.63 Oath or declaration.

(b) In addition to meeting the requirements of paragraph (a) of this section, the oath or declaration must also:

(1) Identify the application to which it is directed;

(2) State that the person making the oath or declaration has reviewed and understands the contents of the application, including

the claims, as amended by any amendment specifically referred to in the oath or declaration; and

(3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application--and evidence of that transmittal submitted (a reasonable effort must be made to ascertain a current or last known address)--but also the petition must state over the signature and registration number of the Petitioner the last known address (and, if appropriate, evidence of the due diligence effort ascertaining same). Moreover, Petitioner must make and support allegations of rights/interest in the application and of risk of irreparable harm/damage.

Finally, Petitioner must include a signed oath/declaration executed by an authorized executive of the alleged assignee on behalf of the non-signing inventor.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.¹

CONCLUSION

Therefore, the instant petition must be and hereby is dismissed.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents²
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (703) 872-9306 (IFW Formal Filings)


¹ See: MPEP 409.03(b).

² To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

ATTN.: Office of Petitions

By hand: Mail Stop: Petition
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.



John J. Gillon, Jr.
Senior Attorney
Office of Petitions



Supplemental Application Data Sheet

Application Information

Application number::	10/727139
Filing Date::	12/02/03
Application Type::	Regular
Subject Matter::	Utility
Suggested Group Art Unit::	3623
CD-ROM or CD-R?::	None
Sequence submission?::	None
Computer Readable Form (CRF)?::	No
Title::	DISTRIBUTED SYSTEMS FOR DETERMINING CARD STATUS
Attorney Docket Number::	CDPC-P01-011
Request for Early Publication?::	No
Request for Non-Publication?::	No
Total Drawing Sheets::	3
Small Entity?::	Yes
Petition included?::	No
Secrecy Order in Parent Appl.?::	No

Applicant Information

Applicant Authority Type::	<u>Inventor</u>
Primary Citizenship Country::	<u>US</u>
Status::	<u>Full Capacity</u>
Given Name::	<u>Paul</u>
Family Name::	<u>Miller</u>
City of Residence::	<u>Derry</u>
State or Province of Residence::	<u>NH</u>
Country of Residence::	<u>US</u>
Street of mailing address::	<u>64 Drew Woods Drive</u>
City of mailing address::	<u>Derry</u>

State or Province of mailing address:: NH
Postal or Zip Code of mailing address:: 03038

Applicant Authority Type:: Inventor
Primary Citizenship Country:: US
Status:: Full Capacity
Given Name:: Daniel
Middle Name:: W.
Family Name:: English
City of Residence:: Salem
State or Province of Residence:: NH
Country of Residence:: US
Street of mailing address:: 11 Redwood Rd.
City of mailing address:: Salem
State or Province of mailing address:: NH
Postal or Zip Code of mailing address:: 03079

Correspondence Information

Correspondence Customer Number:: 28120

Representative Information

Representative Customer Number:: 28120

Domestic Priority Information

Application::	Continuity Type::	Parent Application::	Parent Filing Date::
This Application	An application claiming the benefit under 35 USC 119(e)	60/430494	12/02/02

Foreign Priority Information

Assignee Information

Assignee name:: Cedar Point Communications, Inc.
Street of mailing address:: 16 Route 111, Building 3
City of mailing address:: Derry,
State or Province of mailing address:: NH
Postal or Zip Code of mailing address:: 03038